

the source and send notice of the approval to the applicant.

(g) If adverse comments are received and the reviewing agency determines that the comments do not warrant changes to the base year emission data, the reviewing agency will publish by advertisement in the area affected a notice containing the approved base year emission data for the source and the reasons for not accepting the adverse comments. A notice of the approval also shall be sent to the applicant.

(h) If an applicant submits revised emission data under paragraph (d)(2) or (f) of this section for a source subject to an enforceable commitment, the applicant also shall submit an amended enforceable commitment which takes into account the revised base year emissions.

(i) If revised base year emission data are not submitted or notice of intent to submit revised data is not provided to the permitting authority by an applicant within 90 days of receiving adverse comments or a notice of disapproved base year emission data for a source that is subject to an enforceable commitment, the enforceable commitment shall be considered withdrawn and a notice to that effect shall be sent by the reviewing agency to the applicant.

#### **§ 63.77 Application procedures.**

(a) To apply for an alternative emission limitation under § 63.72, an owner or operator of the source shall file a permit application with the appropriate permitting authority.

(b) Except as provided in paragraph (e) of this section, the permit application shall contain the information required by § 63.74, as applicable, and the additional information required for a complete permit application as specified by the applicable permit program established pursuant to title V of the Act.

(c) Permit applications under this section for sources not subject to enforceable commitments shall be submitted by the later of the following dates:

(1) 120 days after proposal of an otherwise applicable standard issued under section 112(d) of the Act; or

(2) 120 days after the date an applicable permit program is approved or established pursuant to title V of the Act.

(d) Permit applications for sources subject to enforceable commitments pursuant to § 63.75 shall be submitted no later than April 30, 1994.

(e) If the post-reduction year does not end at least one month before the permit application deadline under paragraph (c) of this section, the source may file the post-reduction emissions information required under § 63.74(d)(2), (d)(3), and (d)(5) later as a supplement to the original permit application. In such cases, this supplemental information shall be submitted to the permitting authority no later than one month after the end of the post-reduction year.

(f) If a source test will be the supporting basis for establishing post-reduction emissions for one or more emissions units in the early reductions source, the test results shall be submitted by the applicable deadline for submittal of a permit application as specified in paragraph (c) or (d) of this section.

(g) Review and disposition of permit applications submitted under this section will be accomplished according to the provisions of the applicable permit program established pursuant to title V of the Act.

[58 FR 62543, Nov. 29, 1993, as amended at 59 FR 59924, Nov. 21, 1994]

#### **§ 63.78 Early reduction demonstration evaluation.**

(a) The permitting authority will evaluate an early reduction demonstration submitted by the source owner or operator in a permit application with respect to the requirements of § 63.74.

(b) An application for a compliance extension may be denied if, in the judgement of the permitting authority, the owner or operator has failed to demonstrate that the requirements of § 63.74 have been met. Specific reasons for denial include, but are not limited to:

(1) The information supplied by the owner or operator is incomplete;

(2) The required 90 percent reduction (95 percent in cases where the hazardous air pollutant is particulate matter) has not been demonstrated;

(3) The base year or post-reduction emissions are incorrect, based on methods or assumptions that are not valid, or not sufficiently reliable or well documented to determine with reasonable certainty that required reductions have been achieved; or

(4) The emission of hazardous air pollutants or the performance of emission control measures is unreliable so as to preclude determination that the required reductions have been achieved or will continue to be achieved during the extension period.

**§ 63.79 Approval of applications.**

(a) If an early reduction demonstration is approved and other requirements for a complete permit application are met, the permitting authority shall establish by a permit issued pursuant to title V of the Act enforceable alternative emissions limitations for the source reflecting the reduction which qualified the source for the extension. However, if it is not feasible to prescribe a numerical emissions limitation for one or more emission points in the source, the permitting authority shall establish such other requirements, reflecting the reduction which qualified the source for an extension, in order to assure the source achieves the 90 percent or 95 percent reduction, as applicable.

(b) An alternative emissions limitation or other requirement prescribed pursuant to paragraph (a) of this section shall be effective and enforceable immediately upon issuance of the permit for the source and shall expire exactly six years after the compliance date of an otherwise applicable standard issued pursuant to section 112(d) of the Act.

**§ 63.80 Enforcement.**

(a) All base year or post-reduction emissions information described in § 63.74 and required to be submitted as part of a permit application under § 63.77 or an enforceable commitment under § 63.75 shall be considered to have been requested by the Administrator

under the authority of section 114 of the Act.

(b) Fraudulent statements contained in any base year or post-reduction emissions submitted to a State or EPA Regional Office under this subpart shall be considered violations of section 114 of the Act and of this subpart and, thus, actionable under section 113 of the Act and can be considered, in appropriate cases, violations of 18 U.S.C. 1001, the general false swearing provision of the United States Code.

(c) If a source subject to an enforceable commitment fails to achieve reductions before January 1, 1994, sufficient to qualify the source for an extension under this subpart, the source shall be considered to be in violation of the commitment and shall be subject to enforcement action under section 113 of the Act.

(d) If an early reduction demonstration in a permit application filed under § 63.77 is disapproved for a source not subject to an enforceable commitment, the owner or operator shall comply with an applicable standard issued under section 112(d) of the Act by the compliance date specified in such standard.

(e) If an early reduction demonstration in a permit application filed under § 63.77 is disapproved for a source that is subject to an enforceable commitment, the owner or operator shall comply with an applicable standard issued under section 112(d) of the Act by the compliance date specified in such standard and will be subject to enforcement action under section 113 of the Act.

(f) A violation of an alternative emission limitation or other requirement established by permit under § 63.79 (a) or (b) for the source is enforceable pursuant to the authority of section 113 of the Act notwithstanding any demonstration of continuing 90 percent (95 percent for hazardous air pollutants which are particulates) emission reduction over the entire source.

**§ 63.81 Rules for special situations.**

(a) If more than one standard issued under section 112(d) of the Act would be applicable to a source as defined under § 63.73, then the date of proposal referred to in §§ 63.72(a)(2), 63.72(c),